

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

U.S. DISTRICT COURT
N.D. OF ALABAMA

RONNIE McCLAIN,)
)
Plaintiff,)
)
vs.)
)
WARDEN JOHN NAGLE, et al.,)
)
Defendants.)

CV 01-C-0611-W

swb.
ENTERED

MAY 21 2001

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 25, 2001, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b). The plaintiff filed objections to the report and recommendation on May 9, 2001.

Plaintiff claims that he has been denied access to the courts during the past seven months and states that he was seeking to prevent injury by asking for an injunction. Plaintiff complains that the court did not address his motion for a permanent injunction. In *Lewis v. Casey*, 518 U. S. 343 (1996), the Supreme Court made it clear that, in order to prevail on a claim that his right of access to the courts has been violated, an inmate must establish prejudice by “demonstrat[ing] that the alleged shortcoming in the library or legal assistance program [or other alternative provided] hindered his efforts to pursue a legal claim.” 518 U.S. at 350. In order to prevail on his claim, plaintiff must show actual injury, that is that prison officials actually impeded his pursuit of a non-frivolous post conviction claim or civil rights action. Plaintiff must provide evidence of such deterrence, such as a denial or dismissal of a direct appeal, habeas petition, or civil rights case that

results from actions of prison officials. Mere allegations of denial of access to a law library is inadequate. *Sabors v. Delano*, 100 F. 3d 82, 84 (8th Cir. 1996). Plaintiff has not supported his claims with any evidence of actual injury.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DATED this 21st day of May, 2001.



U. W. CLEMON
UNITED STATES DISTRICT JUDGE